



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

AF DW  
2112

Applicant: Brian A. Leete

Title: POWER SUPPLY WITH BUS HUB

Docket No.: 884.335US1

Filed: December 5, 2000

Examiner: Christopher E Lee

Serial No.: 09/730,238

Due Date: August 3, 2005

Group Art Unit: 2112

**MS Appeal Brief - Patents**

Commissioner for Patents

P.O. Box 1450

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SCHWEGMAN, LUNDBERG, WOESSNER & KLUTH, P.A.

Customer Number 21186

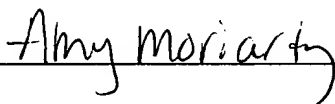
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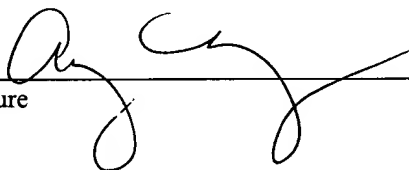
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(GENERAL)



**S/N 09/730,238**

**PATENT**

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

Applicant:	Brian A. Leete	Examiner:	Christopher Lee
Serial No.:	09/730,238	Group Art Unit:	2112
Filed:	December 5, 2000	Docket:	884.335US1
Title:	POWER SUPPLY WITH BUS HUB		
Assignee:	Intel Corporation	Customer Number:	21186

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**REPLY BRIEF UNDER 37 C.F.R. § 41.41**

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**Appellant's Brief on Appeal**

This Reply Brief is filed in response to the Examiner's Answer (hereinafter, the "Answer"), mailed June 3, 2005, and supplements the Appeal Brief filed by Appellant on March 8, 2005. Please charge any required additional fees or credit overpayments to Deposit Account 19-0743.

**Argument**

Appellant respectfully submits that the Examiner's answer is erroneous in its application of the law of 35 USC §103 in the rejections of the pending claims. The Examiner's Answer has not cited clear and particular evidence of record in support of a motivation to combine the applied references as is required by *In re Dembiczak* and *In re Lee*, and is improperly using hindsight in combining the references contrary to *In re Dembiczak*. In addition, the Examiner's Answer has not cited evidence of a reasonable expectation of success of the proposed combinations as is required by *In re Vaeck* and *In re Lee*.

The "Response to Argument" section of the Examiner's Answer fails to fortify the rejection.

For example, the Examiner's Answer relies on *In re McLaughlin*, 170 USPQ 209 (CCPA 1971)<sup>1</sup> and *In re Keller*, 208 USPQ 871 (CCPA 1981)<sup>2</sup> without addressing the more recent case

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<sup>1</sup> Examiner's Answer, page 26.

<sup>2</sup> Examiner's Answer, page 33.

**REPLY BRIEF**

Serial Number: 09/730,238

Filing Date: December 5, 2000

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Page 2

Dkt: 884.335US1

law cited by the appellant. With regard to rejection I, the Examiner's answer states:

“[The references]...are analogous art because they are from a similar problem solving area, viz., USB system, and it takes into account only knowledge which was within the level of ordinary skill at the time the claimed invention was made, and does not include knowledge gleaned only from the Appellant's disclosure. Therefore, the combination of the references ... is proper.”<sup>3</sup>

There is similar language in the Examiner's Answer with respect to the other rejections II-XIII. *In re McLaughlin* and *In re Keller* do not relieve the Examiner's Answer of the requirement to cite evidence showing a motivation to combine the applied references and showing a reasonable expectation of success.

The Examiner's Answer addresses *In re Zurko*:

“In fact, MPEP and/or *In re Zurko* does not specify the final Office Action cannot rely on common sense alone to support a rejection and/or a motivation.”<sup>4</sup>

This is not a correct interpretation of *In re Zurko*. The Examiner's Answer has failed to point to concrete evidence in the record contrary to *In re Zurko*.

The Examiner's Answer alleges that the Appellant's Brief fails to comply with 37 CFR 1.111(b) for failing to point “out how the language of the claims patentably distinguishes them from the references.”<sup>5</sup> On the contrary, Appellant argues that a *prima facie* case of obviousness has not been established in the final Office Action, or in the Examiner's Answer. “The examiner bears the initial burden of factually supporting any *prima facie* conclusion of obviousness.” Appellant has no burden at this time to do other than to point out that the obviousness rejections are defective and that they fail to make out a *prima facie* showing of obviousness. Only when such a showing is made does Appellant have any burden of rebutting the rejection by distinguishing the claims from properly cited prior art.<sup>6</sup>

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3 Examiner's Answer, page 26.

4 Examiner's Answer, page 39.

5 Examiner's Answer, page 33 and other pages.

6 MPEP 2142.

**REPLY BRIEF**

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Page 3  
Dkt: 884.335US1

**CONCLUSION**

For the foregoing reasons, Appellant respectfully submits that the rejections of claims 1-23 and 26-48 under 35 U.S.C. §103 are erroneous. Reversal of those rejections is respectfully requested, as well as the allowance of all the rejected claims.

If necessary, please charge any additional fees or credit overpayment to Deposit Account No. 19-0743.

Respectfully submitted,

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Name

Amy Moriarty

Signature

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